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NARRATIVES OF LEGITIMACY: POLITICAL DISCOURSE IN THE EARLY PHASE OF THE TROUBLES IN NORTHERN IRELAND

Sissel Rosland

Abstract

This article examines the discursive construction of legitimacy in the early phase of the Troubles in Northern Ireland. The empirical material covers the debate on internment without trial from 1971 till 1975 – a debate which involved conflicting claims of legitimacy. Some strongly defended internment as a legitimate step in the fight against the IRA, whilst others regarded it as an illegitimate measure employed by a corrupt political regime. These conflicting claims of legitimacy entailed a conceptual battle concerned with the construction and authorisation of political order. The article explores this battle along three dimensions: law, violence, and democracy.

Introduction

On the 9th of August 1971 the government of Northern Ireland introduced internment without trial.¹ Internment was meant to curb the escalating conflict in Northern Ireland. However, when internment was ended four years later, this aim had not been reached: Cease-fires had come and gone; peace proposals had emerged and failed; and more than 1,300 people had died.²

This paper will explore the construction of legitimacy in Northern Irish political discourse in the early phase of the Troubles. The empirical focal point is the debate on internment. The general conclusion of many commentators has been that internment alienated the Catholic population in Northern Ireland (see Arthur, 2001, p. 114; Murray, 1998 p. 18; McAllister, 1977, p. 97-103; Ruane and Todd, 1997, p. 130; Staunton, 2001, p. 276.) The undermining of state legitimacy can be seen already in the process of re-politicisation in the late 1960s. This process was, however, accelerated and shaped by internment which accentuated a wide range of contentious issues.

The debate on internment involved conflicting claims of legitimacy: some strongly defended internment as a legitimate step in the fight against the IRA, whilst others regarded it as an illegitimate measure employed by a corrupt political regime. These conflicting claims of legitimacy entailed what I, inspired by Frank Burton's (1978, p. 104) phrase, will call "a conceptual battle" concerned with the construction and authorisation of political order.

Interpreting Legitimacy

The concept of legitimacy is used in a variety of disciplines due to its usefulness in the conceptualisation of the process whereby authority is produced not by force but by voluntary obedience (Barker, 1990, p. 11). It has been pointed out that studies of legitimacy have dealt with a growing number of institutions, linking their stability and the consensus they enjoy to the existence of legitimacy (Zelditch, 2001, p. 40). But the concept of legitimacy is not only applicable to a situation of stability. By paying attention to disobedience, light may be cast on the conditions of and reasons for obedience, since it is often the case that the reasons for behaving in a particular way are more clearly stated when that form of behaviour is threatened or in decline, than when it is commonplace (Barker, 1990, p. 6).

The concept of legitimacy has been closely connected to the name of Max Weber, and he represents what we might call a "subjectivist" approach to legitimacy (Weber, 1978). He stressed the empirical and historical character of legitimacy, rather than its normative validity. To Weber it was not legitimacy as such, but the search for legitimacy, which characterised states, and he was subsequently interested in studying how authority and compliance were justified. "Legitimacy" as used by Weber was thus both a *belief* held by subjects and a *claim* made by rulers (Barker, 1990, p. 59).³

In studies that have dealt with issues of legitimacy in conflicts, different conceptions of legitimacy have been employed. One approach has dealt with non-state violence as a problem or as a challenge to the state. The concept of legitimacy is rarely explicitly discussed in such studies, but it is taken for granted that legitimacy derives from the law (see, for example, Phillips, 1990, p. 77 and Wilkinson, 1990, p. 48). Since legitimacy here is viewed as a mere reflection of law, other claims to legitimacy seem to be overruled and ignored.

This approach has been challenged, however, and starting from a critical view of Jürgen Habermas' theories, the political theorist Shane O'Neill O'Neill has developed a framework for a critical discourse theory of

democracy (see O'Neill, 2000 and 2002). O'Neill stresses the importance of linking legitimacy to other sources than current law: for a law to be legitimate it is also necessary that the law be passed without violation of the free use of communicative reason (O'Neill, 2000, p. 506).

In contrast to these (implicit or explicit) normative perspectives, some studies have applied a more subjectivist concept of legitimacy through studying how legitimacy has been established within a particular context (see Burton, 1978; also Sluka, 1989 and Feldman, 1991). The issue of legitimacy is particularly significant in a study by the sociologist Frank Burton (1978) who in his book *The Politics of Legitimacy*, argues that the quest for legitimacy is waged in a conceptual battlefield where: "claims and counter-claims represent ideological struggles within a discourse of legitimacy" (p. 104). Burton follows the subjectivist approach in examining the contextual and conceptual bases of these claims, rather than their normative validity.

This article analyses the construction of legitimacy as a discursive process. Having the historical character of the process of legitimisation at heart, this study resembles the subjectivist perspective of Weber and Burton rather than the normative perspectives. For the present purpose, discourse will be defined as practises that constitute the objects of which they speak (Foucault, 1972, p. 49). This concept of discourse highlights the *constitutive* aspect of language and implies that power is constituted by "regimes of truth" concerned with the creation of an ontological, political, and moral order (see Malkki, 1995, p. 194, and Foucault, 1980, p. 13).

The public utterances are embedded within a historical context, and in the debate the participants negotiate meanings which are never fixed but continually undergoing contestation and redefinition (Chadwick, 2000, p. 292). A central challenge when researching the discursive construction of legitimacy is to find a way to examine how participants in the public debate represent the relationship between the state and the people. In the case of the internment debate, three dimensions stand out as particularly significant in the construction of legitimacy: law, violence, and democracy. Firstly, law was significant since much of the debate related to the legitimacy of the emergency powers, which legalised internment without trial. Secondly, the debate was closely linked to the issue of violence: the escalation of paramilitary violence was given as the main reason for the introduction and continuation of internment, and in addition, the issue of state violence surfaced through allegations that internees had been subjected to torture. Thirdly, the debate exposed conflicting views on the characteristics of "true democracy" and the status of the Northern Ireland state as democratic or undemocratic.

In the following, we will explore how different narratives of legitimacy were constructed around these dimensions. But first, I will give a brief outline of the political situation at the time of the internment debate.

Political Context

The political landscape in which the debate on internment took place was rapidly changing. In contrast to the previous fifty years – in which the Unionist Party had stayed continuously in power and nationalist opposition had become something of an empty exercise – the state in Northern Ireland was gradually re-politicised in the late sixties. Inspired by the civil rights movement in the United States, the Northern Ireland Civil Rights Association (NICRA) was established, attracting support particularly from young Catholics, but also initially from Protestants. Thus in the early 1970s the composition of Northern Ireland's political spectrum changed considerably.

On the unionist side, the Ulster Unionist Party (UUP) was still by far the largest party. It was, however, experiencing a growing internal division as well as increasing opposition from other unionist parties, in particular by Rev. Ian Paisley and his Democratic Unionist Party (DUP) founded in September 1971. DUP soon became an important force in Northern Ireland politics and a persistent threat to the traditional dominance of the UUP. The UUP was also challenged by a new right-wing pressure group, Ulster Vanguard, and several loyalist paramilitary groups such as the Ulster Volunteer Force (UVF) and Ulster Defence Association (UDA). On the other side of the political spectrum, the UUP also lost supporters to a new moderate and liberal party founded in April 1970. This party, called the Alliance Party, gained support from a section of liberal Unionists who had left the UUP and from some former members of the Labour party. The party hoped to draw support from both Protestants and Catholics.

On the nationalist side the Social Democratic and Labour Party (SDLP), founded in August 1970, rapidly became the most important political force rapidly surpassing the old Nationalist party. It presented itself as a radical, left-of-centre party and was backed by former supporters of the Nationalist party as well as members of the civil rights movement. The other strand within nationalist politics, the republican movement, was in 1970 split on the issue of recognition of – and abstention from – the Belfast and Dublin Parliaments. The party Sinn Féin then became two parties: Official Sinn Féin, a left-wing party, (also going under the name "Republican Clubs")

which called for an end to abstentionism, and Provisional Sinn Féin, the party generally known as “Sinn Féin”, which remained abstentionist into the next decade.

Dimensions of Legitimacy: Law

The power to use internment without trial was laid down in the Special Powers Act from 1922. Whereas the government legitimised internment as the lesser of two evils, the anti-internment movement rejected the alternative altogether. In general, unionists presented the internment powers in terms of function and order, whereas the nationalist opposition portrayed them in terms of principles, human rights and freedom.

Unionist Discourse on “Law”

When introducing internment, the UUP government characterised the situation as war. The image of an emergency was supported by firm evidence: statistics showed that violence had escalated from the beginning of January up to the introduction of internment in August 1971. In an initial statement the government pointed out that the figures revealed, “not only a sustained, but a mounting pattern of violence, which could not be borne in any community determined to stay alive.” The government had no choice, it argued, but to enact the provisions of the Special Powers Act (Government Statement, 21 August 1971).

The use of emergency powers was not regarded as an ideal solution, but rather as the only viable option in the struggle for the restoration of order (Brian Faulkner, *The Guardian*, 16 September 1971). Captain Lawrence Orr, the leader of the Ulster Unionists at Westminster, was confident that, although internment would not reconcile the opposing factions in Ulster, it was certainly a step on the way to bringing order back to the streets (*The Guardian*, 16 September 1971). The Prime Minister Brian Faulkner claimed to know the identity of the perpetrators, and internment was thus a useful instrument, because it only affected people who had “murdered in cold blood” (*Belfast Telegraph*, 9 August 1971).

The fundamental trust in the internment procedures was an essential element in the unionist government’s defence of the emergency legislation. The prime minister declared that emergency powers were used with reluctance (*Belfast Telegraph*, 9 August 1971) and he stressed that the government had established a three-man advisory committee to review pleas

made by individual internees (*The Guardian*, 16 September 1971). But in the end, the decision whether a person was to be interned or not, was in the hands of the prime minister. This should provide further reassurance, Faulkner argued, putting his own integrity and authority on the line as a guarantee for fair treatment: "I am not prepared to sign internment orders on anybody unless I am persuaded that person has played a very direct role in violence in Northern Ireland" (*Belfast Telegraph*, 9 August 1971).

In a letter to *The Times* the Unionist MP, James Molyneux, explicitly declared that he regarded internment to be a denial of "fundamental liberties." But, he argued, internment was not only about individual liberties, there were also other important liberties to preserve, he argued: "there is also the fundamental liberty of every British citizen to live at peace under the law." Liberties had to be considered in context, he argued, and liberty to live at peace under the law ought to take priority (*The Times*, 16 August 1971).

As shown above, the unionist government viewed the internment powers as secure, just and legitimate because they were settled in current law. Within such a framework the only valid political question regarding internment was whether it served the purpose of restoring order or not. Some voices within the unionist opposition, however, presented another answer to this question. Ian Paisley argued against internment and rejected the Prime Minister's claim that he had no choice but to introduce internment. He claimed that Faulkner had tried to mislead the country by announcing he was introducing internment as a last resort. According to Paisley this was a deliberate falsehood, as not all processes of the law had been used against the IRA (*News Letter*, 10 August 1971). Still, the unionist opposition mainly presented the internment powers in terms of function (for a further discussion, see Rosland, 2003).

Nationalist Discourse on "Law"

Whereas the unionist government presented the emergency powers in terms of restoring order, the nationalist opposition immediately challenged this priority. A cross-party statement including politicians, priests and representatives of professional and business life in Northern Ireland, summed up this view, pointing out that preserving *human rights* rather than *order* was the most fundamental purpose of law:

A society without order is a distressed society, but a society without freedom is not a society at all. If a choice must be made between the legal preservation of order and the legal preservation of freedom,

freedom must take priority (Statement in *Irish News*, 4 September 1971)

The opposition built its case against the powers of internment around two issues. Firstly, that the power to intern was a perversion of law denying individual fundamental rights; secondly, that the unionist government used internment deliberately as a political weapon to silence the opposition. The opposition believed internment to be an indefensible evil itself, irrespective of circumstances (Statement in *Irish News*, 4 September 1971). Labelling internment “a perversion of law”, the signatories of the cross-party statement particularly stressed that the emergency powers eliminated the restraints on power. By lowering the standards for evidence of guilt, persons could be imprisoned on the basis of evidence that was unknown to them and which in ordinary law would be seen as inadmissible. The internees themselves protested against not being given the opportunity to defend themselves against decisive yet secret evidence (Statement by internees in Crumlin Road Prison, *Irish News*, 23 August 1971). In an open letter to the British Home Secretary, the Derry branch of the SDLP argued that the emergency powers in Northern Ireland did not adhere to the standards of English justice:

To you, internment in Northern Ireland may be only an abstract word in a faraway place. You well know that English law in England holds the liberty of the subject in high regard and that a man is innocent until proven guilty. Only in the gravest circumstances such as the major wars does your English Government set aside these laws and even then, they try to ensure the minimum affront to the dignity of the person and the maximum safeguard for rights and welfare. Contrast this with what you have allowed in Northern Ireland (*Irish News*, 18 December 1971).

Explaining the direct effects of this point, a leading article in the *Irish News*, observed that by using the Special Powers Act, members of the Police Special Branch were able to re-arrest men who had earlier been found innocent by ordinary juries. According to the newspaper this practise undermined individual liberty which was no longer protected by law, but was at the arbitrary disposition of Prime Minister Brian Faulkner (*Irish News*, 25 November 1971).

Competing Approaches to Law

To sum up, the crucial point of division on the issue of emergency powers concerned the balance between order and rights: whereas Faulkner and the government assigned priority to the restoration of order, their critics asserted that the most fundamental task of the law was to preserve the rights

of the individual and to restrain the power of the state. On this ground the opposition ruled out Faulkner's "lesser of two evils"-argument, arguing instead that internment never could be the lesser of two evils.

It has been argued that by establishing what Homi Bhabha has labelled "counter-narratives" (Bhabha, 1990, p. 300), marginalized groups can resist hegemonic representations (Perry in Graham, 2001, p. 86). History has shown that whereas the "positive rights" approach has tended to support established authority, the theories of "natural rights" have been connected to opposition against authorities. The theories of Rousseau and other natural rights theorists produced a notion of legitimacy that transcended the procedures and authority of the state, thus making possible the idea of a legitimate revolution. With legitimacy residing in "a state of nature", rather than in the state, a sense of essential commonality is produced beyond governmental procedures (Wolin, 1996, p. 41).

Dimensions of Legitimacy: Violence

To talk of legitimate violence in the debate on internment seem to be a contradiction in terms. The word "violence" was rarely used to describe what the speaker viewed as a "legitimate" use of force, whether this be by British soldiers or paramilitary "defenders" and "freedom fighters"; "violence" was the force perpetrated by one's opponent.

In their proposed role as peacekeepers in the increasingly troubled society, the security forces had already entered the front stage of Northern Ireland politics before the introduction of internment. Yet, their critical function in the operation of internment regarding arrests and interrogation made the security forces even more contentious.⁴

Competing Discourses on the Security Forces

Almost immediately after the first arrests on the morning of 9 August 1971, there appeared allegations of brutal treatment of the internees (see for example *Irish News*, 10 August, 1971; *Irish News*, 13 August 1971). In a joint statement the SDLP, the Nationalist party, the Republican Labour party and NICRA proclaimed: "We demand that the military resume the role for which they were sent here, the protection of people and areas against sectarian attacks on their homes pending a political solution (joint statement, *Irish News*, 10 August 1971). The stories of mistreatment grew in number during the first months of internment as several internees got to tell their stories to the newspapers.⁵ Under pressure from nationalists in Northern

Ireland, the government of the Republic of Ireland lodged a series of complaints at the European Commission of Human Rights at Strasbourg in December 1971. The Irish government alleged that British policy in Northern Ireland had degenerated to a military assault on the minority in violation of the European Convention of Human Rights (Boyle, 1974). Several persons also submitted individual petitions to the commission (Boyle, 1974).⁶

Nationalists, thus, in general described the treatment of internees as brutal and inhumane, and a violation of the rights of the individual. The ill-treatment was not in the main regarded as evidence of the evilness of the interrogators, but rather as the product of an aggressive state (see Rosland, 2003). Consequently, government inquiries into the matter could never be trusted. Legitimacy had to be authorised elsewhere, and it is consistent with this standpoint that nationalists looked to the Republic of Ireland and the international human rights commission for confirmation of the perceived illegitimacy of state violence in Northern Ireland.

In unionist statements, on the other hand, the security forces were portrayed primarily as responsible protectors characterised by virtues as heroism and victimhood. Already shortly after the introduction of internment, the Prime Minister hailed it as a great success, which allowed the security forces to work efficiently in their “relentless” struggle against the IRA (*Daily Mail*, 16 September 1971). In October, Faulkner concluded: “I think in the last three months that the security forces have got very positively and demonstrably on top of the situation” (*News Letter*, 27 October 1971).

When rumours of mistreatment started to circulate, the government, were keen to respond and assured the public that any claim of ill treatment would be impartially investigated (*News Letter*, 16 August 1971). Yet, questioning the mistreatment allegations, James Kilfedder of the UUP suspected that the internees, in order to safeguard themselves against charges of being informers, were fabricating allegations of Army brutality (*Belfast Telegraph*, 20 October 1971). At the same time he contended that the security forces should be allowed to use some kind of force, if this could shorten the conflict. One had to choose between the terrorists and the soldiers, Kilfedder argued, concluding that the soldiers’ lives ought to be regarded as more important than “the injured feelings of the terrorists” (*Belfast Telegraph*, 20 October 1971).

Although the general unionist view was that the security forces were to be trusted, there were some exceptions to this pattern. In some cases involving loyalist paramilitaries loyalist and unionist politicians criticised the Army for mistreatment. After an incident in the Maze prison in late 1973 that left several loyalist internees injured, both Ian Paisley and the UDA

condemned the troops for mistreating the internees (see *Daily Mail* 20 December 1973; *News Letter*, 20 December 1973; *Irish Times*, 20 December 1973). This occasional criticism, however, did not challenge the main representation of the security forces as protectors of common good.

Competing Discourses on Paramilitaries

The debate on internment exposes several conflicting interpretations of the justification and responsibility for paramilitary violence. According to the government, the IRA was organising “a campaign of murder” with the “responsibility for death and suffering of innocent people” (*News Letter*, 16 August 1971) and Prime Minister Brian Faulkner branded the IRA campaign “an armed conspiracy whose immediate purpose is to destroy the peace, stability and security in this part of the UK” (*Daily Mail*, 16 September 1971). The Prime Minister also stressed that the IRA was isolated from the Catholic population, which it claimed to be representing. The main distinction went not along religious lines, he argued, but between those who pursued their ends democratically and those who wished to impose their views by violence (*News Letter* 13.09.71 and *Irish Times*, 15 April 1974).

The Alliance party also to a certain extent supported the image of the isolated terrorist (see, for example, Oliver Napier in *Belfast Telegraph*, 12 August 1971). Yet, the Alliance Party believed that introducing internment would increase rather than curb the escalating violence (see for example Bob Cooper in *Irish News*, 21 August 1971 and Oliver Napier in *Irish News*, 26 July 1974). Alliance reflections on terrorism thus, instead of drawing a definite line between the agent of violence and the victim, indicated that “the terrorist” could be both an agent of violence and a victim.

This logic was taken even further in the statements of the SDLP, which firmly situated the republican paramilitary within Northern Ireland society. Although condemning their use of violence, the SDLP also viewed republican paramilitaries as “victims of the past”, thus placing the responsibility of paramilitary violence not only on the individual IRA members but on the Northern Ireland state (see for example John Hume in *Irish Times*, 3 December 1973). The paramilitaries were also frequently singled out as agents of counter-productive violence. Violence, then, was depicted as both immoral and futile:

We believe in political means and political means alone. Anyone who looks at our community to-day must be convinced that other than political means only leads us deeper and deeper into the mire and

increases the suffering of all our people (John Hume, *Irish News*, 1 July 1974)

Hume also argued that the responsibility for ending internment rested partly with the IRA: if violence stopped, there would be no justification for the continuation of internment (*Irish News*, 1 December 1973).

Few statements in the debate on internment, even from the republican movement, explicitly defended the IRA as a violent agent.⁷ The purpose of the IRA violence, however, was made very clear: it was to break the political, economic and cultural connection with Britain. Republican statements insisted that they had a mandate for their struggle from both the people and the internees and the desire was that “the Irish people should enjoy justice, peace and prosperity, in a free united Ireland” (Long Kesh Comhairle Ceanntair, Sinn Féin, *Irish News*, 28 March 1972). In contrast to “the isolated terrorists” in the unionist statements, the “republican struggle for freedom” was presented as the manifestation of a birthright, a battle symbolised by the loyalty to the graves of the past.

The loyalty of the loyalist paramilitaries, although to a different object, took on some similar features. The sacrifice of the loyalist paramilitaries in defending Protestants and the Union was a significant part of the representation of the “betrayed defender”. According to loyalist groups, the loyalist paramilitaries were defence forces helping the security forces. The loyalist groups thus felt betrayed when the British Government introduced internment of loyalists in February 1973.

The loyalist paramilitaries were not given a prominent role in the different accounts of internment until after the internment of loyalists. The moderate unionist representation of the loyalist paramilitaries is quite interesting, for it shows that even though most acts of loyalist violence were condemned, it seemed to be important *not* to be considered an opponent of the loyalist internees. At some point it looked like the unionist parties almost competed to be seen as the strongest supporter of the loyalist internees (see, for example, Roy Bradford in *News Letter*, 29 September 1973 and Edward Burns in *Irish Times*, 4 October 1973). Several unionist representatives also initiated motions demanding the release of loyalist internees only, and several district councils adopted such motions (see *Irish Independent*, 28 November 1973 and 21 December 1973; *Belfast Telegraph*, 13 December 1973 and 20 December 1973).

Nationalists challenged this reasoning and initially branded the loyalist paramilitaries as extremists, who attacked innocent Catholics. However, this image began to change after the first internment of loyalists in early 1973.

Loyalists were now, particularly in republican statements, also portrayed as class brothers and victims of internment, suffering in the same way as republican internees (see, for example, the statement by the Republican Clubs, *Irish News*, 31 January 1974; also joint statements printed in the *Irish Times* and *Irish News* in August 1974).

Competing Approaches to Violence

In a study of the discursive (de-)legitimisation of violence it is important to consider how the agents of violence are portrayed in the political statements: by presenting the agents of violence within a particular context the acts of violence might be explained and rationalised. With some exceptions, discourses on violence in the debate on internment echoed the various parties' representation of the use of emergency powers. On the one hand, the unionist movement in general legitimised state violence through an official legal mandate and the function of restoring order. In the case of the loyalist paramilitaries there was an ambivalent approach, however, and the question of purpose and context seem at least partly to come in to play when separating loyalist and republican violence. On the other hand, nationalist discourses stressed alternative sources of legitimacy. In the case of the republican groups, they referred to discrimination as well as human and national rights when justifying republican violence. Within the SDLP, however, violence seemed in general to have been delegitimised through references to moral values and inalienable human rights.

Dimensions of Legitimacy: Democracy

In the debate on internment all political parties presented "democracy" as the legitimate form of government. It is generally held that it is the commitment to popular rule which sets democracies apart from other political systems (Dalton, 1988, p. 206). This maxim was generally recognised in the internment debate, but the debate exposed conflicting representations of democracy. Some connected democracy to the procedures of the existing institutions of government; others linked it to ethnic/national rights. They also had different views on how the people were to conduct their "legitimate right to power". Were the preferences of the people to be secured through institutionalised channels of representation, or should the people themselves defend their interests directly?

Unionist Discourse on "Democracy"

To the Ulster Unionist Party, democracy was a set of procedures for the election of representatives who carried out “the rule of the people”. The decision to introduce internment was taken to protect this democracy. James Molyneux observed that:

in every election during the past 50 years they have shown their determination to remain part of the United Kingdom under the Crown. The electoral system is the same as in other parts of the United Kingdom – universal franchise of one man one vote. Is democracy to remain in Ulster or is the gun to take its place? (*The Times*, 16 August 1971).

Comments by Prime Minister Faulkner followed similar lines. Those who had been interned were interned because of their disrespect for the democratic means: “the essential conflict is between democracy on the one hand, on the other those who wish to bypass democracy by terrorist means” (*Irish Times*, 27 November 1971).

In general the unionist government disapproved of non-parliamentary methods and it berated both individuals and the elected representatives of the nationalist opposition for withdrawing from public bodies and declaring support for a rent and rates strike (Government Statement, 21 September 1971). Although confirming the right to free speech (*News Letter*, 13 September 1971), the government promulgated a six-month ban on parades and demonstrations when introducing internment: the security forces should not be diverted from their essential tasks at such a critical time (*Belfast Telegraph*, 9 August 1971).⁸

The unionist representations of democracy changed somewhat, however, with the suspension of the Stormont parliament in March 1972 and the subsequent negotiations on power-sharing with nationalists. After the fall of Stormont and the agreement on power-sharing, the UUP found itself in a grave internal conflict: would a power-sharing assembly and Executive be democratic institutions?

Brian Faulkner, the leader of the power-sharing fraction, viewed the power-sharing process as the route to a restoration of a Northern Ireland parliament, and thus also to peace, order and good government (*News Letter*, 12 December 1973). Faulkner utterly rejected ideas of an independent Ulster: “Independence from Great Britain, of any style, under any name, and in any circumstances, is repugnant to our ideals, in complete opposition to our basic policy, and would be ruinous to our secure future and disastrous for our economic well-being” (*Irish Times*, 6 March 1973).

The opponents of power-sharing in the UUP had a different interpretation and argued that the Council of Ireland proposed in the

Sunningdale Communiqué was the first step to a united Ireland. They therefore went into the United Ulster Unionist Council coalition with the DUP and Vanguard. Austin Ardill of the anti-power-sharing wing of the UUP claimed that the aim was, “to bring about the restoration of full parliamentary democracy in Northern Ireland” (*News Letter*, 26 February 1974). This was despite the fact that the anti-power-sharing wing of the UUP also supported some non-constitutional actions such as the Ulster Workers Council strike (which eventually brought down the power-sharing institutions). John Taylor, also of the anti-power-sharing wing, stressed that the power-sharing institutions did not have the consent of the majority of Northern Ireland (*News Letter*, 2 March 1974). In contrast to Faulkner, Taylor did not rule out an independent Northern Ireland. In a joint statement with the Vanguard leader, William Craig, he stated that:

we don't agree with those who would accept membership of the U.K. at any price. If the British Government is not prepared to offer Ulster sufficient powers, then we are of the opinion that a negotiated independence for Ulster could be the best course of action for loyalists (*Irish Times*, 17 January 1973).

The Democratic Unionist Party primarily commented on the suspension of Stormont in terms of British citizenship rights (*News Letter*, 27 March 1972). The calls for independence were strongly disputed by the DUP which instead advocated a stronger integration of Northern Ireland in the Union. This did not mean that the DUP was not also concerned with the “loyal Ulster people”. Even though the DUP primarily defended constitutional means of politics (see *News Letter*, 16 February 1972; 27 March 1972) and Ian Paisley did not support the loyalist strike in the wake of the internment of loyalists (*Irish Times*, 8 February 1973), the party regularly defended the actions of loyalist paramilitary groups (see Rankin and Ganiel, this volume).

Nationalist Discourse on “Democracy”

Whereas both the DUP and the majority of the unionist parties related democracy to the rule of the majority, this view was strongly contested by nationalists. The SDLP generally stressed the importance of political representation, but did not regard the majority rule of the UUP in Northern Ireland to be real democracy. During the debate on internment the key element in the SDLP vision of real democracy was above all inclusion. New political institutions had to be built in order to include all sections of the community.

Although established as late as 1970, the SDLP had by the introduction of internment in August 1971, already acquired the experience of working both inside and outside the existing political institutions. The party's seven Stormont MPs decided to pull out of Stormont in the summer of 1971 in protest against the unionist government. When internment was introduced in August, the party supported a rent and rates strike and extended its boycott of public institutions (*Irish News*, 10 August 1971). Despite such support for civil disobedience, however, the position of the SDLP did differ from that of the civil rights and internees' groups (see below), since it continuously stressed the importance of political representation and responsible leadership. In John Hume's words, this was a time for brains, not for brawn (*Irish News*, 11 September 1971).

But even though the SDLP-deputies wanted to lead the people, they also recognised the importance of being in touch with popular sentiments. Representatives should not be too far ahead of the people, Gerry Fitt explained, when he refused to participate in talks with the unionist government after internment (*The Times*, 30 September 1971).

Still, after the suspension of Stormont and its involvement in talks on power sharing, the SDLP resumed its cooperation with the British government and reversed its previous commitment not to participate in any institutions as long as internment remained in force. Now, representation and influence, it was claimed, made it possible for the SDLP to lobby for the release of internees. The SDLP leader, Ivan Cooper, warned against the dangers of taking politics back into the streets: "Demonstrations at this time will not bring internment to an end and will not secure the type of change needed in this community" (*Belfast Telegraph*, 9 August 1973).

It was important for the SDLP to have an Irish dimension included in the Sunningdale Agreement. The majority within the party believed that the nationalist community in Northern Ireland could not give its full allegiance to a state that existed purely in a British context (Murray, 1998, p. 22). Even though the Executive broke down the party still held on to the constitutional approach to politics and the vision of partnership "not merely in Northern Ireland and within Ireland, but in a very real sense between the two islands themselves" (John Duffy, *Irish News*, 20 July 1974).

Civil Rights Movement and Republican Discourse on "Democracy"

When internment was introduced, NICRA immediately called for public demonstrations throughout Northern Ireland and for workers to prepare for a general strike (*News Letter*, 10 August 1971). The association

claimed that the people themselves ought to be safeguarding their rights against incursions from the government: "We believe the greatest weapons of the people in the campaign are civil resistance and disobedience" (Ian Barr [chairman of the NICRA branch at the prison ship, Maidstone], *Irish News*, 15 September 1971). The internees in the Long Kesh internment camp similarly supported popular control and direct action stressing that: "Republicanism is concerned with the right of the people to control the political, economic and cultural life of our country" (*Irish Times*, 28 July 1972).

In other words, people should not wait for the politicians to act in their defence; the people should act themselves. The strong belief in the wisdom of the people and the fundamental distrust in politicians were common to both NICRA and the various internees groups established in the internment camps. The internees in Long Kesh claimed for example that, "the ordinary man having borne the brunt of the suffering over the past few years against the might of the British Army, must assert his will on the wily politicians who even now are snarling at each other in their attempt to claim political capital from a false victory" (*Irish News*, 25 April 1972).

The internees at Long Kesh rejected the SDLP's claims that its strategy would eventually secure the end of internment, claiming that while the people suffered, the SDLP connived with the enemies of Ireland and reneged on all its promises: "You speak for no other than yourselves" (*Irish News*, 6 December 1975). Although sharing a common view on popular participation, there were nonetheless differences between the republican groups. Whereas the Republican Clubs supported some kind of political action inside the existing structures,⁹ the Provisional republicans, both inside and outside the internment camps, ruled out such action.¹⁰ In the Provisional view, democracy could never be achieved through "partitionist institutions" (*Irish News*, 6 December 1975). The Irish people could only achieve justice in a free United Ireland, and it was important that the people rejected the "palace-seekers" who wanted to divert people from the true national aim (*Irish News*, 28 March 1972).

Competing Approaches to Democracy

As we have seen above, the representations of democracy differed considerably among the political parties. The UUP in the first year of the debate, and later the Faulkner unionists defended representation in elected institutions as the main system of popular rule. The SDLP and the anti-power-sharing fraction of the UUP, also stressed the importance of

representatives, but departed from “the responsible model” in that they did not rule out civil disobedience. The civil rights association and the republican (at times also loyalist) groups played down the role of the representative in politics altogether, and connected popular rule to direct popular action.

Another significant difference concerns the issue of majority rule versus “inclusive” government. Here the initial pattern was that the unionist parties viewed democracy as majority rule, whereas the SDLP, the Alliance party, the NICRA, and the republican groups considered the practice of majority rule exclusionary and undemocratic. When the Stormont parliament was suspended, however, this pattern changed. The UUP split on the issue of a power-sharing Executive, and the SDLP came under criticism from NICRA and, in particular, internees and Provisional republicans for taking part in the Executive. Now the unionist parties did not agree as to which measures would secure democracy: the DUP claimed that democracy could only be safeguarded if the Union was retained. Faulkner and his supporters chose power-sharing whereas his critics in the UUP and Vanguard indicated support for an independent Northern Ireland. In this matter, the logic of the latter resembled that of the Provisional republicans. Both perspectives linked democracy to some sort of ethnic/national right to autonomy, rather than to participation in the existing institutions.

Conclusion

The analysis of the political debate on internment has revealed that the dominant unionist representation of legitimacy was linked to the state in an almost tautological relationship: the internment powers were legitimate because they were settled in law; force used by the police and the army was legitimate because they had a mandate from the state; and democracy was viewed as the implementation of majority rule as set down in the governing procedures of the state. Consequently the principal points of reference for legitimacy were the procedures of the state and the “will of the majority”.

Within such a framework, opposition to the state became illegitimate by definition, and the only valid political question regarding internment was whether it served the purpose of restoring order or not. Internment was aimed at restoring order by removing the “terrorists” from the streets. The “terrorists”, portrayed as isolated characters without context and history, and with the creation of fear as their only rationale, played a decisive role in the unionist construction of legitimacy, proving that the conflict was a matter of order, rather than of state legitimacy.

But nationalists saw things differently: many felt that the unionist hegemony had been clearly exposed in the 1960s and internment accelerated the ongoing process of political mobilisation of the nationalist community. The political mobilisation was taken to a new level by a wide-ranging withdrawal from public positions, an illegal rent and rates strike, and through an intensified campaign of protest.

The nationalist counter-narrative of legitimacy was above all exposed in the way nationalists challenged the unionist priority of the order of society over the rights of the individual. In the nationalist narrative, human rights were made the defining source of legitimacy and consequently, rights were made a product of being human, rather than being a citizen in a state: if the state violated these rights, it could not be regarded legitimate. Nationalists also increasingly turned to international sources for validation of their approach, thus “removing” legitimacy from the political and territorial confinements of the state, and relocating it at an international level.

There is no doubt that the division between a dominant narrative of legitimacy on the one hand, and a counter-narrative on the other, was deep in the debate on internment. Still, the debate on internment also exposed another line of division, supplementing this dualism: between a political centre on the one hand, and a politically marginalized periphery on the other.

The fall of Stormont in 1972 changed the balance of power in Northern Ireland: the UUP lost governing powers, and the unionist opposition lost the power it had acquired by being the closest challengers to the UUP. The SDLP, on the other hand, increased its influence: From being a party permanently blocked as a minority in Northern Ireland, the party now became the “voice” of the minority in talks with the British government and in the power-sharing Executive. This alteration of power relations challenged, or perhaps more accurately supplemented, the general pattern of a unionist hegemonic narrative of legitimacy contested by a nationalist counter-narrative.

The SDLP developed a more functional approach to law and democracy during its participation in the power-sharing executive. The keyword behind this transition seems to be “trust”; the SDLP’s experience of increased political influence went hand in hand with the development of faith in the processes of government. In contrast, parts of the UUP, the DUP, and the loyalist paramilitaries went in another direction after the suspension of the Stormont parliament (and also the internment of loyalists). With the Stormont government replaced with a British government defending power sharing and internment of loyalists, the sense of faith and assurance of

political influence were disappearing. Legitimacy was now disconnected from the existing institutions of government and situated in principles of British civil liberties or in the idea of Ulster self-determination.

The construction of legitimacy must therefore be viewed in relation to trust and influence: political pragmatism and functionalism, which legitimised the call for the restoration of order, required a sense of trust in the system and a confidence of political influence. In contrast, the lack of trust and influence seems to have fostered an approach based on rights and principles external to the established institutions of government; an approach which could justify resistance and change.

Endnotes

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¹ In that period, a total of 1981 persons were held without trial: 107 “loyalists” and 1874 “republicans”.

² In the two years prior to internment, 66 people were killed; in the first seventeen months of internment, the number had risen almost tenfold to 610 (Dixon, 2001, p. 118). Following the suspension of the Northern Ireland government in February 1972, internment was continued by the British government.

³ Weber's concept of legitimacy has been criticised, particularly for its non-normative character. Jürgen Habermas (1996) has stressed the importance of employing a normative concept of legitimacy through an understanding of the relationship between solidarity and communication.

⁴ The Compton Committee was set up to investigate allegations that the men being interrogated after their arrests on 9 August 1971 had been subjected to brutal treatment (Elliott and Flackes, 1999, p. 211). The report, acknowledged that there had been ill treatment of internees, but it rejected claims of systematic torture. Another committee (the Parker committee) investigating the methods used in interrogating, later held that the methods were justified in exceptional circumstances (Elliott and Flackes, 1999, p. 391).

⁵ For example, one of the internees, Patrick Shivers was awarded £15,000 in February 1974 by the Ulster High Court in damages for wrongful arrest and torture (*News Letter*, 14 February 1974).

⁶ The Commission determined that some techniques employed in 1971 did constitute torture and that other procedures were inhumane and degrading (Donohue, 2001, p. 121). Yet, the Commission was overruled in the European Court of Human Rights in 1978, which rejected the word torture, but accepted that the internees had suffered 'inhuman and degrading treatment' (Coogan, 1995, p. 129).

⁷ There could be various explanations for this. This type of statement might have been censored by the newspapers, which declined to publicise what may be viewed as violent propaganda. It might also relate to the fact that republican statements tended to deal more with the effects of state violence.

⁸ The Alliance Party also generally argued that civil disobedience was not a legitimate democratic method; instead the party called for talks and a campaign that could foster understanding (see for example Robert G. Cooper in *Irish News*, 21 August 1971 and Basil Glass in *Irish News*, 13 June 1974).

⁹ The Republican Clubs (Official Sinn Féin) viewed elections as one of many ways to voice public opinion, rather than the main channel of popular influence. When they decided to contest elections, the Long Kesh branch of this group supported the move, arguing that by participation in the elections, they were putting forward progressive and revolutionary politics to the electorate (*Irish News*, 21 June, 1973).

¹⁰ Some branches of NICRA also argued against the participation in the existing structures. One branch of NICRA, for instance, sardonically remarked that the SDLP and the Republican Clubs "nearly broke their necks to get involved in another British institution which clearly has not a hope in hell of achieving any scrap of democracy" (Bannside and District Civil Rights Association, *Irish News*, 8 July 1975).

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